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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 26.9.2006.

Manoj Kumar .... Petitioner.

vs

Pawan Kumar .. Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Aman Bansal,Advocate,for the petitioner.

Kiran Anand Lall, J.

This petition under Article 227 of the Constitution of India is directed against the order dated 2.9.2006 vide which the Rent Controller (to be referred as "the Controller") has closed the evidence of the petitioner. The impugned order reads as under:-

> *"No evidence of the petitioner is present. Perusal of the file shows the last opportunity was granted to the petitioner to conclude their evidence. Perusal of the file also reveals that last opportunity was again granted on 9.2.2006. Thereafter, on 20.4.2006, Ld. Counsel for the petitioner made the statement that he will produce the evidence on the next date, if not produced the evidence shall be closed by order of this court, but the petitioner has failed to conclude their evidence. I have no any option, but to close the evidence of the*

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petitioner by order of this court. For evidence of the respondent, to come up on 4.10.06."

It is clear from a perusal of the said order that before closing the evidence of petitioner, the Controller, while adjourning the case to 20.4.2006, on 9.2.2006, had warned the petitioner that last opportunity was being granted to him for his evidence. Still, on 20.4.2006, no evidence was produced. The Controller again granted one more adjournment to him, for the purpose, on the basis of a statement made by his counsel undertaking to produce evidence on the next date and further stating that in case, he failed to do so, his evidence, "*shall be closed by order of this court".* But, inspite of that, the petitioner failed to produce his evidence on 2.9.2006, by passing the impugned order.

Besides, the above narrated adjournments, it is also noteworthy that it finds mention in the petition itself that the case entered the stage of petitioner's evidence as early as on 24.10.2002, but he could not produce his evidence on six consecutive dates fixed for the purpose viz. 20.2.2003, 3.6.2003, 26.9.2003, 12.12.2003, 5.12.2004, and 29.4.2004. Again on 26.10.2004, 30.10.2004, 10.11.2004, and 10.12.2004, no evidence was produced by him. One witness was, however, examined by him on 23.12.2004, another on 2.2.2005, and one more on 8.4.2005.

The petition further goes on to state, in para no.11 thereof, that thereafter, "*the case was adjourned to various dates but the petitioner evidence failed to appear before the Ld. Trial Court and on 20.04.2006, one last opportunity was given for evidence and the case was adjourned to 29.04.2006." (*emphasis added).

In view of the above chequered history of the case, I do not feel

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the necessity of referring to the other opportunities which, too, were granted to the petitioner for his evidence, in addition to those mentioned above.

There is absolutely no illegality or infirmity in the impugned order vide which the learned Controller closed the evidence of the petitioner, after a staggering period of almost about four years, when he failed to complete his evidence inspite of numerous adjournments granted to him, for the purpose.

No merit.

Dismissed.

26.9.2006. (Kiran Anand Lall)
vs. Judge.